

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

3
4 UNITED STATES OF AMERICA,

5
6 Plaintiff,

7
8 v.

 Crim. Action No. 2:24-CR-4
 (Kleeh)

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10
11 NITESH RATNAKAR,

12
13 Defendant.

14
15 INSTRUCTIONS OF LAW TO THE JURY
16
17

Introduction

18 Now that you have heard the evidence, it is my job to tell
19 you about the laws that apply to this case. As jurors, you have
20 two jobs. First, you must determine from the evidence what the
21 facts of this case are. Second, you must apply the rules of law,
22 which I will give you, to those facts in order to determine whether
23 **Nitesh Ratnakar** is guilty or not guilty of the crimes charged in
24 the Indictment.

25 I will be sending a copy of these instructions to the jury
26 room with you; however, you are not to single out any one
27 instruction as stating the law but must consider the instructions
28 as a whole.

29 The Judge has no right to tell the jury what facts have been
30 established by the evidence. In turn, the jury has no right to
31 make decisions as to what law applies to this trial.

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Evidence Generally

There are two types of evidence which are generally presented during a trial: direct evidence and circumstantial evidence. Direct evidence is the testimony of a person who asserts or claims to have actual knowledge of a fact, such as an eyewitness. Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of some further fact which, in a criminal case, may bear on the guilt or innocence of a Defendant.

As a general rule, the law makes no distinction between the weight to be given to either direct or circumstantial evidence, but simply requires that, before convicting an accused, the jury be satisfied of the accused's guilt beyond a reasonable doubt from all of the evidence in the case. Furthermore, no greater degree of certainty is required of circumstantial evidence than is required of direct evidence.

Inferences are deductions or conclusions that reason and common sense lead you to draw, based on the facts that have been established by the evidence in the case. Common sense is no substitute for evidence, but common sense should be used by you to evaluate what reasonably may be inferred from circumstantial evidence. Therefore, you are permitted to use your common sense in evaluating all the evidence, including circumstantial evidence,

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55 that the Government has presented to you in an attempt to prove
56 beyond a reasonable doubt the guilt of Nitesh Ratnakar.

57 The evidence in this case consists of the sworn testimony of
58 all witnesses, regardless of who may have called them; all exhibits
59 received in evidence, regardless of who may have produced them;
60 and all facts that were admitted.

61 Questions, statements, and arguments of counsel are not
62 evidence in the case.

63 Any evidence as to which an objection was sustained by the
64 Court, and any evidence ordered stricken by the Court, must be
65 entirely disregarded, or considered only for the limited purposes
66 for which the evidence was admitted. This includes any hearsay
67 objections overruled because the testimony was not offered for the
68 truth of the matter asserted. Such evidence may only be considered
69 for the stated purpose of its admission.

70 Anything you may have seen or heard outside of the courtroom
71 is not evidence and must be entirely disregarded.

72 You are to consider only the evidence in this case. But in
73 your consideration of the evidence, you are not limited to the
74 mere statements of the witnesses. In other words, you are not
75 limited solely to what you have seen and heard as the witnesses
76 testified. You are permitted to draw from the facts that you find
77 have been proven, such reasonable inferences as you feel are

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justified in the light of your experience.

Neither by these instructions, nor by any ruling that I have made, have I meant to indicate any opinion as to the facts of this trial. The true facts of this trial are for you, the jury, to decide.

Witnesses

You, as jurors, are the sole judges of the credibility of the witnesses and the weight their testimony deserves. You are free to believe all, a portion, or none of a witness's testimony.

You should carefully scrutinize all of the testimony given, the circumstances under which each witness has testified, and every matter in evidence that tends to show whether a witness is worthy of belief. Consider each witness's intelligence, motive, and state of mind, as well as his or her demeanor and manner while on the stand. Consider the witness's ability to observe the matters as to which he or she has testified, and whether he or she impresses you as having an accurate recollection of these matters. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness's testimony is either supported or contradicted by the evidence in the case.

Inconsistencies or discrepancies in the testimony of any witness, or between the testimony of different witnesses, may or

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may not cause you, the jury, to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently. Innocent misrecollection, like failure of recollection, is not an uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail and whether the discrepancy results from innocent error or intentional falsehood.

The testimony of a witness may be discredited or impeached by showing that the witness previously made statements that are inconsistent with the witness's present testimony. The earlier contradictory statements are admissible only to impeach the credibility of the witness and not to establish the truth of these statements. It is the province of the jury to determine the credibility, if any, to be given the testimony of a witness who has been impeached.

If you believe that any person testifying in this trial has not told the truth, you may believe such parts of his or her testimony as you believe to be true and reject such parts as you believe to be false. The jury's duty is to determine, from all the evidence presented, and all the circumstances surrounding this trial, which witnesses have testified truthfully, and which ones, if any, have testified falsely.

Certainly, this Court does not mean to imply that any witness

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124 who has testified before you testified falsely or untruthfully.
125 All the witnesses may have been giving you their very best judgment
126 and honest opinion as to those matters to which they have
127 testified.

128 You, the jury, will have to determine which testimony is more
129 satisfactory to you. Naturally, you may take into consideration
130 the opportunity of each witness to observe and to know the facts
131 concerning which his or her testimony was given.

Law Enforcement Testimony

133 During the course of this trial, you have heard the testimony
134 of people employed by the Government, including law enforcement
135 agents. Such witnesses do not stand in any higher station in the
136 community than other persons, and their testimony is not entitled
137 to any greater weight than that given to other witnesses.

138 A law enforcement agent who takes the witness stands subjects
139 his or her testimony to the same examination and the same tests
140 that any other witness does. In considering the testimony of a law
141 enforcement agent, you, the jury, should recall his or her demeanor
142 on the stand, his or her manner of testifying, and the substance
143 of his or her testimony, and then weigh and balance it just as
144 carefully as you would the testimony of any other witness.

Number of Witnesses

146 Your decision on the facts of this case should not be

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determined by the number of witnesses testifying for or against a party. You should consider all the facts and circumstances in evidence to determine which of the witnesses you choose to believe or not believe. You may find that the testimony of a smaller number of witnesses on one side is more credible than the testimony of a greater number of witnesses on the other side.

A Defendant's Election Not to Testify

As I have stated, the law does not compel a defendant in a criminal case to take the witness stand and testify. In this case, the Defendant Nitesh Ratnakar has exercised his right to remain silent and elected not to testify. He is under no obligation to do so, and you must not hold his silence against him in any way because, again, it is the Government's burden to prove each essential element of the charges against him beyond a reasonable doubt.

Indictment Is Not Evidence

As I earlier indicated to you, an indictment is but a formal method of accusing a defendant of a crime. It is not evidence of any kind against the Defendant and does not create any presumption or permit any inference of guilt. It is merely the formal means by which the Government accuses an individual of a crime in order to bring that individual to trial. The Defendant has answered the charges in this trial by pleading not guilty, and you must not be

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prejudiced against the Defendant because an indictment was filed.

Presumption of Innocence

In resolving the issues before you, you must keep in mind that, under the law of the United States, a defendant is presumed to be innocent, and this presumption of innocence goes with the Defendant at every stage of the trial. Thus, a defendant, although accused, begins the trial with no evidence against him. The presumption of innocence alone is sufficient to acquit a defendant, unless you are satisfied beyond a reasonable doubt of the Defendant's guilt after careful and impartial consideration of all the evidence in the case.

In this case, as in every criminal case, the burden of proof is upon the Government to establish, first, the fact that the crimes charged were committed; and second, that the Defendant on trial is guilty of the commission of the particular crimes with which he is charged in the Indictment beyond a reasonable doubt. This burden never shifts to the Defendant. It remains upon the Government throughout the trial.

Other Acts

The Defendant is not on trial for any acts or crimes not alleged in the Indictment. Your job is limited to deciding whether the Government has proven the crimes charged in the Indictment beyond a reasonable doubt.

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193 Reasonable Doubt

194 It is not required that the Government prove guilt beyond all
195 possible doubt. The test is one of reasonable doubt. A reasonable
196 doubt means in law just what the words imply, a doubt based upon
197 reason and common sense. The meaning of reasonable doubt is self-
198 evident. Therefore, the Court will not attempt to further define
199 the term.

200 Location and Dates

201 You will note that the Indictment charges that the offenses
202 were committed "on or about" a certain date. The proof need not
203 establish with certainty the exact date of the alleged offense. It
204 is sufficient if the evidence in the case establishes beyond a
205 reasonable doubt that the offense was committed on a date
206 reasonably near the date alleged.

207 The Indictment

208 The Indictment in this case charges the Defendant, NITESH
209 RATNAKAR, with the following offenses. Each charge, and the
210 evidence pertaining to it, should be considered separately by the
211 jury. The fact that you may find the Defendant guilty or not guilty
212 as to one of the counts should not control your verdict as to any
213 other count.

214 **Counts One through Thirty-Eight** of the Indictment charge that
215 on or about the dates listed below, in Randolph County, in the

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216 Northern District of West Virginia, the Defendant, NITESH
217 RATNAKAR, did willfully fail to pay over to the Internal Revenue
218 Service the federal income taxes withheld and Federal Insurance
219 Contributions Act taxes due and owing to the United States on
220 behalf of WVGE and SANESO and their employees for the quarters
221 listed below, which he had caused WVGE and SANESO to deduct and
222 collect from the total taxable wages of WVGE's and SANESO's
223 employees and truthfully account for, during those quarters, in
224 the amounts listed below, with each calendar quarter constituting
225 a separate count of this Indictment:

COUNT	DATE	QUARTER	COMPANY	TAX AMOUNT
1	May 24, 2018	201803	WVGE	\$89,686.74
2	July 31, 2018	201806	WVGE	\$81,491.78
3	October 31, 2018	201809	WVGE	\$77,945.29
4	January 31, 2019	201812	WVGE	\$78,783.28
5	August 28, 2019	201903	WVGE	\$82,748.56
6	September 3, 2019	201906	WVGE	\$83,187.40
7	October 31, 2019	201909	WVGE	\$74,196.09
8	January 31, 2020	201912	WVGE	\$75,055.20
9	April 30, 2020	202003	WVGE	\$54,864.94
10	July 31, 2020	202006	WVGE	\$73,352.62
11	October 31, 2020	202009	WVGE	\$78,130.98

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12	January 31, 2021	202012	WVGE	\$82,312.91
13	April 30, 2021	202103	WVGE	\$97,590.37
14	July 31, 2021	202106	WVGE	\$92,089.36
15	October 31, 2021	202109	WVGE	\$94,808.73
16	January 31, 2022	202112	WVGE	\$95,931.75
17	April 30, 2022	202203	WVGE	\$107,727.94
18	July 31, 2022	202206	WVGE	\$79,429.28
19	October 31, 2022	202209	WVGE	\$70,884.61
20	April 30, 2018	201803	SANESO	\$20,246.17
21	July 31, 2018	201806	SANESO	\$22,048.72
22	October 31, 2018	201809	SANESO	\$22,387.12
23	January 31, 2019	201812	SANESO	\$30,081.81
24	April 30, 2019	201903	SANESO	\$29,329.82
25	July 31, 2019	201906	SANESO	\$43,903.57
26	October 31, 2019	201909	SANESO	\$65,411.16
27	January 31, 2020	201912	SANESO	\$54,845.79
28	April 30, 2020	202003	SANESO	\$45,799.63
29	July 31, 2020	202006	SANESO	\$48,044.22
30	October 31, 2020	202009	SANESO	\$52,683.70
31	January 31, 2021	202012	SANESO	\$55,269.88
32	April 30, 2021	202103	SANESO	\$49,503.99
33	July 31, 2021	202106	SANESO	\$57,371.23

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34	October 31, 2021	202109	SANESO	\$60,399.58
35	January 31, 2022	202112	SANESO	\$44,430.41
36	April 30, 2022	202203	SANESO	\$55,564.76
37	July 31, 2022	202206	SANESO	\$50,559.77
38	October 31, 2022	202209	SANESO	\$41,460.98

All in violation of Title 26, United States Code, Section 7202.

Counts Thirty-Nine through Forty-One of the Indictment charge that for tax years 2020, 2021, and 2022, the Defendant, NITESH RATNAKAR, fraudulently inflated his tax refund by falsely claiming Form W-2 withholdings from WVGE in amounts higher than the tax deposits WVGE made.

On or about the dates set forth below, in Randolph County, in the Northern District of West Virginia, the Defendant, NITESH RATNAKAR, did willfully make and subscribe U.S. Individual Income Tax returns, Forms 1040, for himself, for the calendar years set forth below, which were verified by written declarations that they were made under the penalties of perjury and which he did not believe to be true and correct as to every material matter. The income tax returns, which were filed with the IRS, reported items in the amounts set forth below, whereas, as he then and well knew, these items, among others, were materially false:

COUNT	OFFENSE DATE	YEAR	FALSE LINE ITEM
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39	October 28, 2023	2020	Federal Income Tax Withheld from Forms W-2 of \$53,775.00
40	October 28, 2023	2021	Federal Income Tax Withheld from Forms W-2 of \$53,775.00
41	October 23, 2023	2022	Federal Income Tax Withheld from Forms W-2 of \$53,775.00

All in violation of Title 26, United States Code, Section 7206(1).

Count Forty-Two of the Indictment charges that on or about June 5, 2023, in Randolph County, West Virginia, in the Northern District of West Virginia, the Defendant, NITESH RATNAKAR, did corruptly attempt to obstruct, influence, and impede a Northern District of West Virginia grand jury investigation, an official proceeding, by causing the production of false and fraudulent Forms 941, Employer's Quarterly Federal Returns, for WVGE and SANESO in response to grand jury subpoenas issued as part of a Northern District of West Virginia grand jury investigation of the Defendant's tax practices. Specifically, the Defendant caused his return preparer to sign and backdate several Forms 941 that the Defendant then caused to be provided to the U.S. Attorney's Office for the Northern District of West Virginia as returns on subpoenas issued to WVGE and SANESO, in violation of Title 18, United States Code, Section 1512(c)(2).

Relevant Background as to Counts One through Thirty-Eight

Taxability of Wages

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264 The law imposes an income tax, a social security tax, and a
265 hospital insurance (Medicare) tax on the wages of individual
266 employees equal to a percentage of the wages earned by the
267 employee. To assist the Government in collecting these taxes, the
268 law requires every employer to deduct these taxes from wages paid
269 to employees and hold them in trust for the United States.
270 Furthermore, the withheld amounts must be deposited with an
271 authorized financial institution or Federal Reserve Bank, at
272 certain intervals that depend on the amounts withheld.

273 These "trust fund taxes" are for the exclusive use of the
274 government and are not to be held by the employee or the employer.

275 The law also imposes excise taxes on every employer for social
276 security and hospital insurance (Medicare) equal to a certain
277 percentage of the wages paid to the employee by the employer.

278 Requirement to Report Withholding of Income and Social
279 Security Taxes
280

281 The law requires that employers file a Form 941, Employer's
282 Federal Quarterly Tax Return, each calendar quarter. The Form 941
283 reports the withholding of employee income, social security, and
284 Medicare taxes. The employer must file this Form 941 on or before
285 the last day of the first calendar month following the period for
286 which it is made. Thus, for the quarter ending March 31, the Form
287 941 is due by April 30; for the quarter ending June 30, the Form
288 941 is due by July 31; for the quarter ending September 30, the

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Form 941 is due by October 31; and for the quarter ending December 31, the Form 941 is due by January 31.

Requirement to Pay Over Withheld Taxes to the United States

The law requires that an employer pay over the withheld income and social security taxes, commonly known as "trust fund taxes," to the United States before the Form 941 quarterly tax return is due. Once an employer has withheld an employee's wages, the Government deems the employee to have paid the withheld taxes.

Elements of the Alleged Offenses

Counts One through Thirty-Eight - Willful Failure to Pay Over Tax

In order to sustain its burden of proof for the crime of willful failure to pay over tax in violation of Title 26, United States Code, Section 7202, as charged in **Counts One through Thirty-Eight** of the Indictment, the Government must prove the following essential elements beyond a reasonable doubt that:

One: the Defendant was a person who had a duty to collect, truthfully account for, and pay over federal income and social security taxes that the Defendant was required to withhold from the wages of employees of West Virginia Gastroenterology & Endoscopy PLLC, Saneso America Inc., and Saneso Inc. for each respective calendar quarter alleged in Counts One through Thirty-Eight of the Indictment;

Two: the Defendant failed to collect or truthfully account

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for and pay over federal income and social security taxes that the Defendant was required to withhold from the wages of employees of West Virginia Gastroenterology & Endoscopy PLLC, Saneso America Inc., and Saneso Inc. for each respective calendar quarter alleged in Counts One through Thirty-Eight of the Indictment; and

Three: The Defendant acted willfully in failing to collect or truthfully account for and pay over the taxes.

Each quarter in each count is to be considered separately by you.

Relevant Terms as to Counts One through Thirty-Eight

"Willfulness"

As to Counts One through Thirty-Eight, willfulness is defined as the voluntary intentional violation of a known legal duty. A defendant's conduct is not willful if it was due to negligence, inadvertence, or mistake, or was the result of a good faith misunderstanding of the requirements of the law.

If you find beyond a reasonable doubt that the Defendant specifically intended to do something that is against the law and voluntarily committed the acts that make up the crime, then the element of "willfulness" is satisfied. Similarly, an omission or failure to act is "willfully" done, if done voluntarily and intentionally, and with the specific intent to fail to do something the Defendant knows the law requires to be done; that is to say, with

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337 intent either to disobey or to disregard the law.

338 Willfulness may also be proven by evidence that the Defendant
339 was "willfully blind" - that is that the Defendant deliberately and
340 purposely closed his eyes to avoid knowing what was taking place
341 around him.

342 Person Required to Collect, Account For, and Pay Over Tax

343 To have a "duty" with respect to a tax means the Defendant
344 was responsible for collecting, accounting truthfully for, or
345 paying over the tax. To be found guilty of the offense charged in
346 Counts One through Thirty-Eight of the Indictment, the Defendant
347 must have been a person required to collect, truthfully account
348 for, or pay over withheld federal income and Social Security
349 ("FICA") taxes.

350 An individual is such a person if he was an officer or
351 employee of a corporation or a member or employee of a partnership
352 of limited liability company or connected or associated with a
353 business entity in a manner such that he had the authority and
354 duty to assure that withholding taxes and social security taxes
355 were collected, accounted for, or paid over and when.

356 Responsibility is a matter of status, duty, or authority, not
357 knowledge. A responsible person need only have significant control
358 over the company finances, not exclusive control. A person has
359 significant control if he has the power and responsibility to

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determine who would get paid and who would not. An individual may be a responsible person regardless of whether he does the actual mechanical work of keeping records, preparing returns, or writing checks.

There may be more than one person connected with a corporation, partnership, limited liability company, or business entity who is required to collect, account for, and pay over withholding taxes. If you find that the Defendant was not a "responsible person," then you will not consider any other issue. On the other hand, if you conclude that the Defendant was a "responsible person," you must then decide whether the Defendant acted "willfully" in the failure collect, truthfully account for, and pay over taxes to the Government.

Violation of Any One of the Three Duties is a Violation of the Statute

The Defendant may be found guilty of violating Section 7202, of Title 26 of the United States Code if he had a duty to (1) collect, (2) account for, or (3) pay over a tax and failed to comply with any one of the above-mentioned duties. In other words, the Government need not prove that the Defendant was responsible for all three duties. It is enough to prove that the Defendant was responsible for one of the three duties. Likewise, the Government need only prove that the Defendant failed to comply with one of the three duties for which he was responsible.

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**Counts Thirty-Nine through Forty-One - Filing False Income
Tax Return**

In order to sustain its burden of proof for the crime of filing a false income tax return in violation of Title 26, United States Code, Section 7206(1), as charged in **Counts Thirty-Nine through Forty-One** of the Indictment, the Government must prove the following four essential elements beyond a reasonable doubt that:

One: the Defendant made, or caused to be made, and signed (subscribed) a tax return for the year in question containing a written declaration;

Two: the return was made under the penalties of perjury;

Three: the Defendant did not believe the return to be true and correct as to every material matter; and

Four: the Defendant acted willfully.

Each year and each count is to be considered separately by you.

Relevant Terms as to Counts Thirty-Nine through Forty-One

"Signed"/ "Subscribed"

As to Counts Thirty-Nine through Forty-One, the word "subscribed" simply means the signing of one's name to a document. You may infer and find that a tax return was, in fact, signed by the person whose name appears to be signed to it. You are not required, however, to accept any such inference or to make any such finding. If you find beyond a reasonable doubt from the

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evidence in the case that the Defendant signed the tax return in question, then you may also draw the inference and may also find, but are not required to find, that the Defendant knew of the contents of the return that he signed.

A signature made in digital or other electronic form can be treated the same as a handwritten signature.

"Under Penalties of Perjury"

As to Counts Thirty-Nine through Forty-One, "under penalties of perjury" means that the tax returns in question contained a declaration that they were signed, including electronically signed, under the penalties of perjury. A signature plus the declaration is sufficient, and the document need not be witnessed or notarized.

"False"

As to Counts Thirty-Nine through Forty-One, a statement or representation is false if it was untrue when made and was then known to be untrue by the person making it, or if it was made with reckless indifference as to its truth or falsity. An income tax return may be false not only by reason of understatement of income, but also because of an overstatement of lawful deductions or credits or because deductible expenses are mischaracterized on the return.

"Materiality"

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As to Counts Thirty-Nine through Forty-One, a statement or representation is "material" if it has a natural tendency to influence or is capable of influencing a decision or action of the Internal Revenue Service. The test of materiality is whether a particular item must be reported in order that the taxpayer estimate and compute his tax correctly. The purpose of this law is not simply to ensure that the taxpayer pay the proper amount of taxes, but also to ensure that the taxpayer did not make misstatements that could hinder the Internal Revenue Service in carrying out such functions as the verification of the accuracy of the return or of a related return. Thus, your determination of materiality does not depend upon the amount of the unpaid tax. For example, any failure to report income is material; the omission of information necessary to compute income is material; and false statements relating to gross income, irrespective of the amount, constitute material misstatements.

"Willfulness"

As to Counts Thirty-Nine through Forty-One, willfulness is defined the same as previously explained for Counts One through Thirty-Eight.

**Count Forty-Two - Obstruction of Justice - Corruptly Influence
Official Proceeding**

In order to sustain its burden of proof for the crime of obstruction of justice, corruptly influencing an official

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proceeding, as charged in **Count Forty-Two** of the Indictment, the Government must prove the following essential elements beyond a reasonable doubt that:

One: the Defendant attempted to or did obstruct or impede an official proceeding;

Two: the Defendant acted with the intent to obstruct or impede the official proceeding;

Three: the Defendant acted knowingly, with awareness that the natural and probable effect of his conduct would be to obstruct or impede the official proceeding; and

Four: the Defendant acted corruptly.

With respect to the elements above, the term official proceeding includes a proceeding before a federal grand jury.

A person acts "knowingly" if he realizes what he is doing and is aware of the nature of his conduct, and does not act through ignorance, mistake, or accident. In deciding whether a defendant acted knowingly, you may consider all of the evidence, including what the Defendant did or said.

To act "corruptly," a defendant must use unlawful means or have an improper purpose, or both. The Defendant must also act with "consciousness of wrongdoing." "Consciousness of wrongdoing" means with an understanding or awareness that what the person is doing is wrong.

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While the Defendant must act with intent to obstruct the official proceeding, this need not be the Defendant's sole purpose. A defendant's unlawful intent to obstruct justice is not negated by the simultaneous presence of another purpose for the Defendant's conduct.

Good Faith Defense to Willfulness

As to Counts one through Forty-One, the Defendant's conduct would not be willful if you find that he acted in accordance with a good faith misunderstanding of the law. The Defendant's views need not be legally correct, just as long as he honestly and in good faith really and truly believed and acted upon them. A good faith misunderstanding of the law, as distinct from disagreement with the law, is a defense.

A defendant may raise the defense of good faith if he acted in reliance on the advice of a professional, such as an accountant. To be entitled to rely on such advice as a theory of defense, however, the Defendant must have disclosed all relevant facts to his accountant. Moreover, the Defendant must show that he actually relied on expert advice, that his reliance was in good faith and that he followed the advice. If, however, the Defendant is advised by the professional accountant that a contemplated course of action complies with applicable tax law, but subsequently discovers the advice is wrong or discovers reason to doubt the advice, the

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Defendant cannot hide behind the professional accountant's advice to escape the consequences of a violation.

The burden of proof is not on the Defendant to prove good-faith intent because the Defendant does not need to prove anything. The Government must establish beyond a reasonable doubt that the Defendant acted willfully as charged. Evidence that the Defendant acted in good faith may be considered by you, together with all the other evidence, in determining whether or not he acted willfully.

Investigative Techniques

Some or all of you may have seen popular television shows such as CSI or Law & Order. The TV standards, and the capabilities of law enforcement as portrayed on TV and in the movies, do not apply here to this trial. Witness testimony, if believed by you, is sufficient to establish the charges in this case. Specific investigative techniques, such as DNA and fingerprints, are not required to be presented in order for you to find the Defendant guilty of the charges in this case. Your concern is whether the evidence which was admitted proved the Defendant's guilt beyond a reasonable doubt.

Closing

Finally, ladies and gentlemen, the verdict must represent the considered judgment of each juror. In order to return a verdict,

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529 it is necessary that each juror agree with it. Your verdict must
530 be unanimous.

531 It is your duty, as jurors, to consult with one another and
532 to deliberate with a view toward reaching an agreement, if you can
533 do so without sacrifice of conscientious conviction. Each of you
534 must decide the case for yourselves, but do so only after an
535 impartial consideration of the evidence in the case with your
536 fellow jurors. During your deliberations, do not hesitate to re-
537 examine your own views and change your opinion, if convinced it is
538 erroneous. But do not surrender your honest conviction as to the
539 weight or effect of the evidence, solely because of the opinion of
540 your fellow jurors, or for the mere purpose of returning a verdict.

541 Some of you have taken notes during the course of this trial.
542 Notes are only an aid to memory and should not be given precedence
543 over your independent recollection of the facts. A juror who did
544 not take notes should rely on his or her independent recollection
545 of the proceedings and should not be influenced by the notes of
546 other jurors.

547 If any reference by the Court or by counsel to matters of
548 evidence does not coincide with your own recollection, it is your
549 recollection which should control during your deliberations.

550 Remember at all times, you are not partisans. You are judges –
551 judges of the facts. Your sole interest is to seek the truth from

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552 the evidence in the case.

553 You must not permit yourself to be influenced by sympathy,
554 passion, prejudice, or public sentiment for or against the accused
555 or the Government.

556 If the accused is proven guilty of the crimes alleged in the
557 Indictment beyond reasonable doubt, say so. If not so proven
558 guilty, say so.

559 Under the federal system of criminal procedure, you are not
560 to concern yourself in any way with the sentence that the Defendant
561 might receive if you should find him guilty. Your function is
562 solely to decide whether the Defendant is guilty or not guilty of
563 the charges against him. If, and only if, you find the Defendant
564 guilty, does it then become the duty of the Judge to pronounce the
565 sentence.

566 If it becomes necessary during your deliberations to
567 communicate with the Court, you may send a note by the United
568 States Marshal, signed by your foreperson, or by one or more
569 members of the jury. No member of the jury should attempt to
570 communicate with the Judge by any means other than a signed
571 writing. The Court will not communicate with any member of the
572 jury on any subject touching the merits of the case otherwise than
573 in writing, or orally here in open Court. Also, the Court will not
574 be able to give you transcripts of the evidence or testimony

INSTRUCTIONS OF LAW TO THE JURY

575 presented at trial. Therefore, you must make your findings upon
576 the evidence as you remember it.

577 Remember, the Judge can only answer questions of law.
578 Therefore, you should initially discuss the instructions of law
579 among yourselves before writing a question on the law. As well,
580 the jury's duty is to judge the facts only on the evidence
581 presented before you. The Judge cannot answer questions of fact or
582 re-open the case for additional evidence after the evidence is
583 closed.

584 Bear in mind also that you are never to reveal to any person,
585 not even to the Judge, how the jury stands, numerically or
586 otherwise, on the question of the innocence or guilt of the
587 Defendant, until after you have reached a unanimous verdict.

588 During your deliberations, you must not communicate with or
589 provide any information to anyone by any means about this case.
590 You may not use any electronic device or media, such as a
591 telephone, cell phone, smart phone, iPhone, iPad, tablet, or
592 computer; the internet, any internet service, or any text or
593 instant messaging service; or any internet chat room, blog, or
594 website such as Facebook, LinkedIn, Snapchat, Instagram, YouTube
595 or Twitter, to communicate to anyone any information about this
596 case or to conduct any research about this case until I accept
597 your verdict.

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598 In addition, the local rules of this Court provide that after
599 conclusion of a trial, no party, his agent, or his attorney shall
600 communicate or attempt to communicate with you concerning the
601 jury's deliberations or verdict without first obtaining permission
602 from me. This rule does not prevent you, the jury, from
603 communicating with anyone concerning your deliberations or
604 verdict, but it prevents you from being contacted by others.

605 Upon retiring to the jury room, you should first select one
606 of your members to act as your foreperson, who will preside over
607 your deliberations and who will be your spokesperson here in open
608 Court.

609 Do not begin your deliberations until the clerk delivers to
610 your jury room the verdict forms and exhibits.

611 A verdict form has been prepared for you to use. You will
612 take this form to the jury room. When you have reached a unanimous
613 agreement as to your verdict, you will have your foreperson fill
614 in and sign the form that sets forth the verdict upon which you
615 unanimously agree. You will then return with your verdict to the
616 Courtroom.

617 Ladies and gentlemen, the attorneys will now present their
618 closing arguments. Then the case will be ready for your
619 deliberation, and the Court's officer will conduct you to the jury
620 room.

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